

### § 129.3

### 22 CFR Ch. I (4–1–04 Edition)

or transfers of defense articles or defense services in return for a fee, commission, or other consideration.

(b) *Brokering activities* means acting as a broker as defined in §129.2(a), and includes the financing, transportation, freight forwarding, or taking of any other action that facilitates the manufacture, export, or import of a defense article or defense service, irrespective of its origin. For example, this includes, but is not limited to, activities by U.S. persons who are located inside or outside of the United States or foreign persons subject to U.S. jurisdiction involving defense articles or defense services of U.S. or foreign origin which are located inside or outside of the United States. But, this does not include activities by U.S. persons that are limited exclusively to U.S. domestic sales or transfers (e.g., not for export or re-transfer in the United States or a foreign person).

(c) The term “foreign defense article or defense service” includes any non-United States defense article or defense service of a nature described on the United States Munitions List regardless of whether such article or service is of United States origin or whether such article or service contains United States origin components.

#### § 129.3 Requirement to Register.

(a) Any U.S. person, wherever located, and any foreign person located in the United States or otherwise subject to the jurisdiction of the United States (notwithstanding §120.1(c)), who engages in the business of brokering activities (as defined in this part) with respect to the manufacture, export, import, or transfer of any defense article or defense service subject to the controls of this subchapter (see §121) or any “foreign defense article or defense service” (as defined in §129.2) is required to register with the Office of Defense Trade Controls.

(b) *Exemptions.* Registration under this section is not required for:

(1) Employees of the United States Government acting in official capacity.

(2) Employees of foreign governments or international organizations acting in official capacity.

(3) *Persons exclusively in the business of financing, transporting, or freight forwarding,* whose business activities do not

also include brokering defense articles or defense services. For example, air carriers and freight forwarders who merely transport or arrange transportation for licensed United States Munitions List items are not required to register, nor are banks or credit companies who merely provide commercially available lines or letters of credit to persons registered in accordance with Part 122 of this subchapter required to register. However, banks, firms, or other persons providing financing for defense articles or defense services would be required to register under certain circumstances, such as where the bank or its employees are directly involved in arranging arms deals as defined in §129.2(a) or hold title to defense articles, even when no physical custody of defense articles is involved.

#### § 129.4 Registration statement and fees.

(a) *General.* The Department of State Form DSP-9 (Registration Statement) and a transmittal letter meeting the requirements of §122.2(b) of this subchapter must be submitted by an intended registrant with a payment by check or money order payable to the Department of State of one of the fees prescribed in §122.3(a) of this subchapter. The Registration Statement and transmittal letter must be signed by a senior officer who has been empowered by the intended registrant to sign such documents. The intended registrant shall also submit documentation that demonstrates that it is incorporated or otherwise authorized to do business in the United States.

(b) A person required to register under this part who is already registered as a manufacturer or exporter in accordance with part 122 of this subchapter must also provide notification of this additional activity by submitting to the Office of Defense Trade Controls by registered mail a transmittal letter meeting the requirements of §122.2(b) and citing the existing registration, and must pay an additional fee according to the schedule prescribed in §122.3(a). Any person who registers coincidentally as a broker as defined in §129.2 of this subchapter and as a manufacturer or exporter must